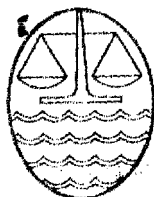




UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA



PROVISIONAL

For participants only

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25 July 1974

ENGLISH

ORIGINAL: SPANISH

Second Session

Second Committee

PROVISIONAL SUMMARY RECORD OF THE NINTH MEETING

Held at the Parque Central, Caracas,
on Friday, 19 July 1974, at 11.25 a.m.

Chairman:

Mr. AGUILAR

Venezuela

Rapporteur:

Mr. NANDAN

Fiji

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CONSIDERATION OF SUBJECTS AND ISSUES AND RELATED ITEMS

TERRITORIAL SEA (A/9021, A/CONF.62/C.2/L.3 to L.12) (continued)

The PRESIDENT informed the members of the Committee that the General Committee had decided to prepare a revision of informal working document No. 1, which would be considered at the meeting of Monday, 22 July.

CONTIGUOUS ZONE

Mr. TELLO (Mexico), supported by Mr. MBAYA (United Republic of Cameroon) and by Mr. LAWSON (Togo) suggested that the Committee postpone consideration of item 3 in view of the fact that the contiguous zone would lose its reason for existing if the concept of the patrimonial sea were included in the new law of the sea. He pointed out, moreover, that only one draft article on the contiguous zone had been submitted (A/9021, vol. IV, page 47) so that in case there was no agreement with regard to the elimination of the contiguous zone, it would perhaps be best to put the only existing text "on ice" and to take a decision at a later date.

Mr. JAGOTA (India) reminded the Committee that the proposals concerning the contiguous zone had been submitted by his delegation, but indicated that in any event he agreed with either of the two alternatives proposed by the Mexican delegation, since the concept of the contiguous zone would be superfluous irrespective of whether the jurisdiction to be granted to the coastal State were broad or limited. Even if it was decided to maintain the contiguous zone as an area in which specific powers would be exercised, it should be limited in breadth not exceeding 18 nautical miles.

Mr. DJALAL (Indonesia) agreed that the contiguous zone would lose its importance if the idea of an economic zone were approved, but since the latter would essentially relate to questions of economics and marine resources, his delegation preferred that the concept of the contiguous zone should not be discarded completely, since it involved other powers of the coastal State with regard to customs, fiscal, and police control, and sanitation and immigration regulations.

Mr. ROSENNE (Israel) said that his delegation could see no reason to perpetuate the concept of the contiguous zone. In the context of the new law of the

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(Mr. Rosenne, Israel)

sea, it would remain applicable only in the event that no agreement was reached on extending the breadth of the territorial sea to 12 nautical miles or on establishing a maritime zone in which the coastal State would enjoy various exclusive rights, especially of an economic nature.

The Israeli delegation believed that if a State decided not to extend its territorial sea up to the maximum agreed limit, but still deemed it necessary to enforce its regulations with regard to taxation, customs, or immigration up to that limit, it should be able to do so. If a State was entitled to determine the outer limit of its sovereignty up to a distance of 12 nautical miles, it obviously could also elect to exercise lesser powers in that same zone.

In view of those considerations, the Israeli delegation was inclined to agree that consideration of the item should be deferred.

Mr. ABDEL HAMID (Egypt) said that his delegation had already referred to the necessity of maintaining the concept of the contiguous zone. In that connexion, it should be recalled that Egyptian legislation provided for a contiguous zone of six miles, since in areas of heavy maritime traffic, the coastal State should have facilities for enforcing its regulations.

The jurisdiction implied by the concept of the contiguous zone was completely different from that applicable to the economic zone, and there were practical reasons for maintaining the former concept.

Mr. NJENGA (Kenya) said that the role envisaged for the contiguous zone in the 1958 Geneva Convention was quite limited and was serviceable in the context of a territorial sea of 12 miles. On the other hand, if the new concept of an economic zone extending to 200 miles were accepted, the contiguous zone would become totally useless, and his delegation was therefore willing to postpone consideration of that item until after other related items had been discussed.

Mr. ARAIN (Iraq) agreed with the proposals to postpone consideration of the item until after discussion of the question of the economic zone, but he believed that the institution of the contiguous zone should not be abandoned at the present stage.

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Mr. MEDJAD (Algeria) agreed with the delegation of Mexico that the idea of a contiguous zone was an anachronism and could be confused with the concepts of a territorial sea or an economic zone. However, having listened to the statement by the representative of India, and bearing in mind the level of pollution in the Mediterranean, he felt that his country needed strong regulations to protect the marine environment adjacent to its coasts. Consequently, it was preferable to maintain the concept of a contiguous zone, but to postpone discussion of the subject until the concept of the economic zone had been considered.

Mr. POLLARD (Guyana) asked whether the proposal by the representative of Mexico did not come under the provisions of rule 28 of the rules of procedure.

The CHAIRMAN replied that the delegation of Mexico had not made a formal proposal and that rule 28 therefore did not apply.

Mr. KHARAS (Pakistan) said that the 1958 Convention had not envisaged the concept of a contiguous zone with regard to resources but only in relation to national security, fiscal and customs control, and sanitation and immigration regulations. It was not clear, therefore, whether jurisdiction with regard to both resources and administrative matters would be embodied in the concept of an economic zone. Consequently, he felt that it would be preferable to consider the item after the question of the economic zone had been discussed.

Mr. MBAYA (United Republic of Cameroon) said that the concept of a contiguous zone in the 1958 Convention had been superseded to some extent, and that some people held the view that the concepts of a contiguous zone and of an economic zone were based on precisely the same premise namely the development requirements of States. Consequently, the contiguous zone should be considered as a means of protecting resources and should be measured from the seaward limits of the zone to be established, whether territorial sea or economic zone.

Mr. GALINDO POHL (El Salvador) said that the concept of a contiguous zone was historically justified at the time when the coastal State was granted a form of jurisdiction over and above the old three-mile territorial sea. The new concepts of a territorial sea of 12 miles or an economic zone of 200 miles called for a decision as to whether the contiguous zone would be absorbed into those spaces, whether a zone of jurisdiction would have to be established in addition to the territorial sea or the

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(Mr. Galindo Pohl, El Salvador)

economic zone. As some delegations had proposed a special régime for navigation in the economic zone, it remained to be seen whether the idea of a contiguous zone could be embodied in that concept. For all those reasons, he felt that it would be preferable to defer consideration of the question of a contiguous zone until the question of an economic zone had been discussed.

Mr. NIMER (Bahrain) said that the contiguous zone had a specific purpose in relation to national security, fiscal and customs control and sanitation and immigration regulations, and the concept was not incompatible with the concepts of a territorial sea or an economic zone. On the other hand, all items were being considered in the order in which they appeared on the Committee's agenda and that order should be followed. He therefore felt that consideration of item 3 should be completed and that the conclusions of the discussion could subsequently be co-ordinated with those resulting from consideration of the question of the economic zone.

Mr. ARIAS SCHREIBER (Peru) said that although the concept of a contiguous zone was bound to disappear as the result of the development of the law of the sea, the comments of the representative of India with regard to the possible inclusion of that concept in the idea of a territorial sea or an economic zone should not be ignored. The matter should be given careful consideration because it pertained to the residual rights of the coastal State. He felt that it was reasonable to postpone discussion on it until the question of the economic zone had been considered.

Mr. AL-SALEM AL-SABAH (Kuwait) supported the Mexican proposal to postpone consideration of item 3, and said that he could not accept the view that the contiguous zone was redundant. His country had set a 12-mile limit to its territorial sea by government decree and reserved the right in the future to claim a contiguous zone. He was therefore opposed to deletion of the item from the agenda.

Mr. FATTAL (Lebanon) said that the economic zone as it was understood by most representatives, extended beyond the contiguous zone; the establishment of an economic zone would mean the end of the concept of the territorial sea. The coastal State would have greater responsibilities in the economic zone than it had at present in the territorial sea and the customs, fiscal, sanitation and policing powers that it now held in the contiguous zone would be needed to ensure the rule of law in the economic zone. Consequently, it would be necessary to revise both the concept of the patrimonial sea and the concept of hot pursuit. /...

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Mr. OGUNDERE (Nigeria) said his delegation did not consider that the customs, fiscal, sanitation and immigration powers were no longer needed or were useless in the contiguous zone: rather, they would increase as a result of exploitation of the resources. Furthermore, there was the problem of pollution of the marine environment. His country had extended its territorial sea, by decree, to 30 nautical miles and the draft articles on the territorial sea submitted by his delegation in document A/CONF.62/C.2/L.12 lent support to those calling for a further extension of the territorial sea. The concept of the economic zone should be discussed both from the point of view of exploitation of its resources and in relation to customs, fiscal, sanitation and policing powers inasmuch as those powers in the contiguous zone remained in full force.

Mr. LACLETA Y MUÑOZ (Spain) said that the contiguous zone used to be considered as extending beyond the territorial sea, but that was an outdated concept. It was recognized in the 1958 Geneva Convention as a zone established for specific purposes, in which the coastal State had special powers. In that context, the contiguous zone should not be eliminated. There were three possibilities: to make the economic zone an autonomous entity by reason of its specific purposes in relation to a territorial sea of limited breadth; to consider the contiguous zone as a special strip in the economic zone - that would seem more acceptable than the first possibility which did not allow for combining the different powers; or to have a broad territorial sea with several régimes - in that case the contiguous zone would come to be regarded as one of the special régimes.

Mr. AL-SALEM AL-SABAH (Kuwait) moved the adjournment of the debate.

The CHAIRMAN said that in accordance with rule 28 of the rules of procedure (A/CONF.62/30/Rev.1) he would invite two representatives to speak in favour of, and two against, the motion.

Mr. TELLO (Mexico) supported the motion of the representative of Kuwait and proposed that unofficial working paper No. 2 should include the text of the only existing draft on the subject, which appeared in document A/9021, volume IV, page 47, and that item 4 should be taken up at the next meeting.

Mr. ARIAS SCHREIBER (Peru) supported the motion of Kuwait and said that unofficial working paper No. 2 should not only include the Indian draft, but should also state that the countries that supported a territorial sea of 200 miles considered that the contiguous zone was unnecessary and would be absorbed within the jurisdiction of the coastal State.

Mr. LIMPO SERRA (Portugal) opposed the motion made by the representative of Kuwait and said that he would prefer the debate on item 3 to continue.

Mr. NIMER (Bahrain) opposed the motion made by the representative of Kuwait. The whole meeting had been devoted to discussing the postponement of the debate and he felt that the item should continue to be discussed, particularly as it related to the powers of the State in the contiguous zone.

After a procedural discussion in which Mr. AL-SALEM AL-SABAH (Kuwait) and Mr. MOVCHAN (Union of Soviet Socialist Republics) took part, the CHAIRMAN said that, since there was no consensus, the Committee should vote on the motion to adjourn the debate. An adjournment would not preclude submission of proposals on the item at any time.

The motion for adjournment of the discussion of item 3 was adopted by 63 votes to 17, with 26 abstentions.

The CHAIRMAN said that the Committee would return to the item on the contiguous zone before dealing with the item on the high seas.

The meeting rose at 1.05 p.m.